



POLICE DEPARTMENT

October 1, 2010

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Eric Murray  
Tax Registry No. 941090  
Police Service Area 8  
Disciplinary Case No. 86364/10

The above-named member of the Department appeared before me on August 20, 2010, charged with the following:

1. Said Police Officer Eric Murray, assigned to the 42 Precinct, while off-duty, on or about and between September, 2009 through November 22, 2009, at a location known to this Department, in Bronx County, did wrongfully and without just cause engage in off-duty employment at "CO-OP City Car Service" without authority or permission to do so.

P.G. 205-40, Page 1, Paragraph 1 – OFF DUTY EMPLOYMENT

2. Said Police Officer Eric Murray, assigned as indicated in Specification #1, while off-duty, on or about November 22, 2009, at [REDACTED], in Bronx County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said officer was involved in an altercation with Taxi and Limousine Commission Inspector Michael Pierre during a TLC enforcement operation.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

3. Said Police Officer Eric Murray, assigned as indicated in Specification #1, while off-duty, on or about November 22, 2009, at [REDACTED] in Bronx County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said officer failed to timely identify himself as a member of the Department to on-duty New York City Police Sergeant Enoch Law, Tax #926757, during an off-duty incident.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

4 Said Police Officer Eric Murray, assigned as indicated in Specification #1, while off-duty, on or about November 22, 2009, at [REDACTED] e, in Bronx County, was wrongfully in possession of a bogus or counterfeit New York City Police Department shield #26774, without permission or authority to do so

P G 203-10, Page 2, Paragraph 18 – PUBLIC CONTACT – PROHIBITED  
CONDUCT

The Department was represented by Beth Douglas, Esq , Department Advocate's Office, and the Respondent was represented by Craig Hayes, Esq

The Respondent, through his counsel, entered pleas of Guilty to the subject charges. A stenographic transcript of the mitigation hearing record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty, is found Guilty.

EVIDENCE IN MITIGATION

The Respondent, who is married, has two children and owns the home he and his family reside in, testified that during 2009, because he was assigned to "restricted" duty status, he could not apply to work any paid details and he was not permitted to perform overtime. As a result, his family's finances were severely strained. He obtained off-duty employment as a driver for CO-OP City Car Service. The Respondent testified that he did not seek permission to engage in this off-duty employment by submitting an off-duty employment application to the Department because he did not believe that he would be approved for off-duty employment based on his restricted duty status.

The Respondent testified that on November 22 2009, he was engaged in his off-duty employment as a driver for CO-OP City Car Service when his dispatcher directed him to pick up a passenger at [REDACTED] the Bronx. When he arrived at that location, he was met by a Taxi and Limousine Commission (TLC) Inspector, [REDACTED], who identified himself as a TLC Inspector. The Respondent testified that because he was looking downwards, he did not realize that [REDACTED] wanted him to roll down his window. When the Respondent heard [REDACTED] yelling at him, he "yelled back" at [REDACTED]. The Respondent acknowledged that he "was a little disrespectful" to [REDACTED] and that he had no right to be disrespectful to him because [REDACTED] "was just doing his job."

The Respondent told [REDACTED] that he was a police officer. Shortly thereafter, two uniformed police officers arrived at the scene in a patrol car. When a New York City Police Sergeant arrived at the scene, the Respondent did not identify himself as a police officer to the sergeant because he assumed that the TLC Inspector would tell the sergeant that he was a police officer.

The Respondent testified that he was carrying a duplicate shield at the time of this incident because he was off-duty and because he is a "young, minority officer." The Respondent explained that he had carried a duplicate shield when he was off-duty "to show on-duty police officers" he might encounter while he was in civilian clothing.

On cross-examination, the Respondent acknowledged that after the sergeant left the scene, he told the two responding officers that he was a member of the service. The officers radioed the sergeant who then returned to the scene. The Respondent also acknowledged that Pierre asked him to hand over the keys to the CO-OP City Car Service.

car The Respondent then gave him the car keys, which he had removed from the ignition and placed in his pocket

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined See *Matter of Pell v Board of Education*, 34 N Y 2d 222 (1974)

The Respondent was appointed to the Department on January 31, 2006 Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum

The Assistant Department Advocate recommended that the Respondent forfeit 40 vacation days and serve one year on dismissal probation

The Respondent, who has no prior disciplinary record and who has served for nearly five years as a member of the service, has pleaded guilty to engaging in unauthorized off-duty employment as a driver for a car service for three months In previous cases where a uniformed member with no prior disciplinary record and less than ten years of service has pleaded guilty to engaging in unauthorized off-duty employment, the penalty range has generally consisted of the forfeiture of 13 to 15 vacation days In Disciplinary Case No 84481/08 (signed on October 7, 2009), a three-year member who had no prior disciplinary record forfeited 15 vacation days after pleading guilty to engaging in unauthorized off-duty employment as a disc jockey and bartender at a licensed premise In Disciplinary Case No 84629/08 (signed on October 21, 2009), a nine-year member who had no prior disciplinary record forfeited 13 vacation days after pleading guilty to engaging in unauthorized off-duty employment as a security guard In

addition, that member was performing this security work within three hours prior to the start of her regularly assigned tour. In Disciplinary Case No. 85086/09 (signed on August 25, 2010), a five-year member who had no prior disciplinary record forfeited 13 vacation days after pleading guilty to engaging in unauthorized off-duty employment as a vending machine operator.

The Respondent has also pleaded guilty to engaging in a brief verbal altercation with a TLC Inspector during a TLC enforcement operation. Since this altercation was purely verbal, the penalty to be imposed should be less than the penalty imposed in Disciplinary Case No. 83746/08 (signed on May 29, 2009), where a four-year member with no prior disciplinary record forfeited eight vacation days after pleading guilty to engaging in a verbal and physical altercation with another MOS while they were on duty, in uniform, in front of their station house.

The Respondent has further admitted that he failed to timely identify himself as a member of the Department to the sergeant who arrived at the scene and that, as a result of this failure, the sergeant, who had left, had to come back to the scene. In Disciplinary Case No. 84438/08 (signed on February 23, 2009), an eight-year uniformed member with no prior disciplinary record forfeited ten vacation days for failing to identify herself as a member of the service when on-duty officers entered her residence to arrest her boyfriend.

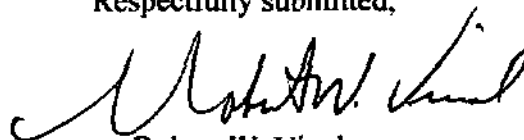
Finally, the Respondent has pleaded guilty to carrying an unauthorized duplicate shield while he was off-duty. Misconduct which generally merits a five-day penalty.

In formulating a penalty recommendation, I have also taken into consideration the Respondent's unrefuted testimony that his sole motive for engaging in unauthorized off-

duty employment was to support his wife and children, and the fact that the other three Specifications that the Respondent has pleaded guilty to involve a single incident on a single day, not multiple instances of misconduct committed over a period of time

Therefore, it is recommended that the Respondent forfeit 30 vacation days

Respectfully submitted,



Robert W Vinal

Assistant Deputy Commissioner - Trials

**APPROVED**  
MAR 22 2011  
  
RAYMOND W KELLY  
POLICE COMMISSIONER

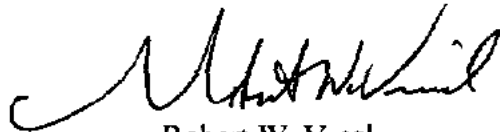
POLICE DEPARTMENT  
CITY OF NEW YORK

From Assistant Deputy Commissioner - Trials  
To Police Commissioner  
Subject CONFIDENTIAL MEMORANDUM  
POLICE OFFICER ERIC MURRAY  
TAX REGISTRY NO 941090  
DISCIPLINARY CASE NO 86364/10

The Respondent received an overall rating of 3.0 on his 2009 performance evaluation, and 3.0 on his 2008 evaluation. He has been awarded one Meritorious Police Duty medal [REDACTED]. He has no prior formal disciplinary record.

On January 7, 2010, he was placed in Level-II Discipline Monitoring which is still active.

For your consideration



Robert W. Vinal  
Assistant Deputy Commissioner – Trials